

LEGISLATURE OF NEBRASKA
NINETY-SIXTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 919

Introduced by Bruning, 3

Read first time January 5, 2000

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend section
2 77-2716, Revised Statutes Supplement, 1998; to provide
3 income tax adjustments for pensions and other
4 distributions, dividends, and interest; to provide an
5 operative date; and to repeal the original section.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-2716, Revised Statutes Supplement,
2 1998, is amended to read:

3 77-2716. (1) The following adjustments to federal
4 adjusted gross income or, for corporations and fiduciaries, federal
5 taxable income shall be made for interest or dividends received:

6 (a) There shall be subtracted interest or dividends
7 received by the owner of obligations of the United States and its
8 territories and possessions or of any authority, commission, or
9 instrumentality of the United States to the extent includable in
10 gross income for federal income tax purposes but exempt from state
11 income taxes under the laws of the United States;

12 (b) There shall be subtracted that portion of the total
13 dividends and other income received from a regulated investment
14 company which is attributable to obligations described in
15 subdivision (a) of this subsection as reported to the recipient by
16 the regulated investment company;

17 (c) There shall be added interest or dividends received
18 by the owner of obligations of the District of Columbia, other
19 states of the United States, or their political subdivisions,
20 authorities, commissions, or instrumentalities to the extent
21 excluded in the computation of gross income for federal income tax
22 purposes except that such interest or dividends shall not be added
23 if received by a corporation which is a regulated investment
24 company;

25 (d) There shall be added that portion of the total
26 dividends and other income received from a regulated investment
27 company which is attributable to obligations described in
28 subdivision (c) of this subsection and excluded for federal income

1 tax purposes as reported to the recipient by the regulated
2 investment company; and

3 (e)(i) Any amount subtracted under this subsection shall
4 be reduced by any interest on indebtedness incurred to carry the
5 obligations or securities described in this subsection or the
6 investment in the regulated investment company and by any expenses
7 incurred in the production of interest or dividend income described
8 in this subsection to the extent that such expenses, including
9 amortizable bond premiums, are deductible in determining federal
10 taxable income.

11 (ii) Any amount added under this subsection shall be
12 reduced by any expenses incurred in the production of such income
13 to the extent disallowed in the computation of federal taxable
14 income.

15 (2) There shall be allowed a net operating loss derived
16 from or connected with Nebraska sources computed under rules and
17 regulations adopted and promulgated by the Tax Commissioner
18 consistent, to the extent possible under the Nebraska Revenue Act
19 of 1967, with the laws of the United States. For a resident
20 individual, estate, or trust, the net operating loss computed on
21 the federal income tax return shall be adjusted by the
22 modifications contained in this section. For a nonresident
23 individual, estate, or trust or for a partial-year resident
24 individual, the net operating loss computed on the federal return
25 shall be adjusted by the modifications contained in this section
26 and any carryovers or carrybacks shall be limited to the portion of
27 the loss derived from or connected with Nebraska sources.

28 (3) There shall be subtracted from federal adjusted gross

1 income for all taxable years beginning on or after January 1, 1987,
2 the amount of any state income tax refund to the extent such refund
3 was deducted under the Internal Revenue Code, was not allowed in
4 the computation of the tax due under the Nebraska Revenue Act of
5 1967, and is included in federal adjusted gross income.

6 (4) Federal adjusted gross income, or, for a fiduciary,
7 federal taxable income shall be modified to exclude the portion of
8 the income or loss received from a small business corporation with
9 an election in effect under subchapter S of the Internal Revenue
10 Code or from a limited liability company organized pursuant to the
11 Limited Liability Company Act that is not derived from or connected
12 with Nebraska sources as determined in section 77-2734.01.

13 (5) There shall be subtracted from federal adjusted gross
14 income or, for corporations and fiduciaries, federal taxable income
15 dividends received or deemed to be received from corporations which
16 are not subject to the Internal Revenue Code.

17 (6) There shall be subtracted from federal taxable income
18 a portion of the income earned by a corporation subject to the
19 Internal Revenue Code of 1986 that is actually taxed by a foreign
20 country or one of its political subdivisions at a rate in excess of
21 the maximum federal tax rate for corporations. The taxpayer may
22 make the computation for each foreign country or for groups of
23 foreign countries. The portion of the taxes that may be deducted
24 shall be computed in the following manner:

25 (a) The amount of federal taxable income from operations
26 within a foreign taxing jurisdiction shall be reduced by the amount
27 of taxes actually paid to the foreign jurisdiction that are not
28 deductible solely because the foreign tax credit was elected on the

1 federal income tax return;

2 (b) The amount of after-tax income shall be divided by
3 one minus the maximum tax rate for corporations in the Internal
4 Revenue Code; and

5 (c) The result of the calculation in subdivision (b) of
6 this subsection shall be subtracted from the amount of federal
7 taxable income used in subdivision (a) of this subsection. The
8 result of such calculation, if greater than zero, shall be
9 subtracted from federal taxable income.

10 (7) Federal adjusted gross income shall be modified to
11 exclude any amount repaid by the taxpayer for which a reduction in
12 federal tax is allowed under section 1341(a)(5) of the Internal
13 Revenue Code.

14 (8)(a) There shall be subtracted from federal adjusted
15 gross income an amount equal to the difference between the amount
16 qualified for calculation of a deduction as provided in section
17 162(1) of the Internal Revenue Code and the amount actually allowed
18 pursuant to section 162(1)(1) of the Internal Revenue Code.

19 (b) For an individual who itemized deductions on his or
20 her federal return, the maximum amount subtracted under subdivision
21 (8)(a) of this section shall be seven and one-half percent of
22 federal adjusted gross income.

23 (9) Federal adjusted gross income shall be modified to
24 exclude the amount received by an individual as a distribution from
25 a pension, an individual retirement account, a 401K plan, or an
26 annuity, dividends, or interest. This modification shall be
27 limited to the maximum excludable benefits, reduced by the social
28 security benefits, as defined in section 86(d) of the Internal

1 Revenue Code of 1986, as amended, the tier 2 railroad retirement
2 benefits, and any amount of a pension, an individual retirement
3 account, a 401K plan, or an annuity distribution, dividends, or
4 interest which is excluded from gross income. The exclusion shall
5 not be applicable until the year the taxpayer is sixty-five years
6 of age on the first day of the calendar year.

7 For purposes of this subsection:

8 (a) Applicable maximum benefit amount means (i) for an
9 unmarried individual, including one filing as a head of household,
10 the maximum individual social security benefit, (ii) for a married
11 individual filing a joint return whose spouse is entitled to a
12 social security benefit or a pension, an individual retirement
13 account, a 401K plan, or an annuity distribution, dividends, or
14 interest on his or her own right, two hundred percent of the
15 maximum individual social security benefit, (iii) for a married
16 individual filing a joint return whose spouse is not entitled to a
17 social security benefit or a pension, an individual retirement
18 account, a 401K plan, or an annuity distribution, dividends, or
19 interest on his or her own right, one hundred fifty percent of the
20 maximum individual social security benefit, (iv) for a married
21 individual filing a separate return whose spouse is entitled to a
22 social security benefit or a pension, an individual retirement
23 account, a 401K plan, or an annuity distribution, dividends, or
24 interest on his or her own right, one hundred percent of the
25 maximum individual social security benefit, or (v) for a married
26 individual filing a separate return whose spouse is not entitled to
27 a social security benefit or a pension, an individual retirement
28 account, a 401K plan, or an annuity distribution, dividends, or

1 interest on his or her own right, seventy-five percent of the
2 maximum individual social security benefit;

3 (b) Maximum excludable benefit means an amount which
4 would be excluded from gross income if the applicable maximum
5 benefit amount were treated as social security, as defined in
6 section 86(d) of the Internal Revenue Code of 1986, as amended,
7 received during the taxable year; and

8 (c) Maximum individual social security benefit means the
9 maximum total amount, as certified by the Secretary of Health and
10 Human Services, which could be paid for all months in the calendar
11 year ending in the taxable year of old-age insurance under 42
12 U.S.C. 402(a), without regard to any reduction, deduction, or
13 offset under 42 U.S.C. 402(k) or 403, to any individual who has
14 attained sixty-five years of age, on the first day of the calendar
15 year.

16 Sec. 2. This act is operative for all taxable years
17 beginning or deemed to begin on or after January 1, 2000, under the
18 Internal Revenue Code of 1986, as amended.

19 Sec. 3. Original section 77-2716, Revised Statutes
20 Supplement, 1998, is repealed.